IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1178 OF 2005

Mahesh S/O.Dharma Patil ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.P.M.Chakurkar for Applicant.

Mr.R.Y.Mirza, A.P.P. for Respondent.

ALONG WITH

CRIMINAL BAIL APPLICATION NO.1199 OF 2005

Nilesh Tulsiram Patil ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr.R.S.Deshpande i/b Mr.P.L.Sapkale for Applicant.

Mr.R.Y.Mirza, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 21, 2005.

P.C.

1. Heard Counsel for the parties. Perused

the record.

2. The incident in question took place on 30th September 2004. The prosecution case is that all the accused came on the scene together weilding choppers in their hands. Amit inflicted first blow on the deceased, followed by Umesh and as the deceased fell on the ground, all the accused together, brutally assaulted the deceased. The prosecution version is supported by the medical evidence which indicates that 25 injuries have been caused on the person of the deceased. The F.I.R. was lodged without any loss of time and investigation proceeded. The Applicants have been arrested after sometime on 5th October 2004. In other words, prima facie, there is material to indicate the complicity of the Applicants in the commission of the crime. To get over this position, Counsel for the Applicants contended that the Applicants have been named out of animosity between the two families on account of land dispute. It is argued that only two persons have been named with specific role attributed to them and no specific injury or role of the present

Applicants is described in the evidence. Besides, there is no recovery from the present Applicants. Moreover, except the complainant, there is no other independent witness and that, the only other witness examined by the prosecution namely rickshaw driver has failed to identify the present Applicants.

3. The argument as canvassed on behalf of the Applicants, in my opinion, cannot be accepted, as presently advised. The Applicants have been named in the F.I.R. and overt act has been attributed, in that, the Applicants have assaulted the deceased after he fell on the ground pursuant to blows given by Amit and Umesh. It cannot be overlooked that 25 injuries have been caused to the deceased and all are attributable to the sharp edged weapon. The fact that there are no other eye-witnesses, by itself, cannot be the basis to doubt the version of the complainant which is supported by medical evidence. Taking overall view of the matter and having regard to the seriousness of the offence, not a case for bail. Hence, rejected.

4. As Bail Application has been rejected, in my opinion, it is appropriate that the Applicants get early trial before the lower Court. In the circumstances, the Sessions Judge, Thane, is directed to assign the case to the Fast Track Court, if already not done, to ensure early disposal of the trial, preferably within six months from the receipt of writ of this Court. The Trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in the present order or the order passed by itself, rejecting the Bail Application of the present Applicants.

5. The Applicants shall extend full co-operation to the Trial Court for early disposal of the trial and if the Trial Court is of the opinion that the Applicants are responsible for the delay of the trial, that fact be recorded in the Roznama, which opinion will be taken into account as and when occasion arises.

6. Application disposed of on the above terms.

A.M.KHANWILKAR, J.